

Free Consultation: (800) 553-8082

PLAINTIFF ATTORNEY

LEGAL INFORMATION CENTER

Example Motion for Expedite Discovery

Filing a case before the **statute of limitations** is a recipe for disaster. So is preparing a case for trial and having a discovery deadline looming without knowing the extent and scope of the plaintiff's injuries. It is a fine line.

If you find yourself on the "need to file late" side of the line, you need to make sure quickly that you have all of your defendants in the case before you miss the statute. This is a sample motion to expedite discovery so you know you have all of the defendants you need to have in the case.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

RICHARD HANSEL,
– Plaintiff,

v.

BUENA VISTA THEATRICAL GROUP, LTD., et al.
– Defendants.

Case No. **1:08-cv-00675 (RDB)**

Plaintiff's Motion to Conduct Discovery Prior to the Time Specified in Rule 26(D)

Plaintiff, Richard Hansel, by and through his attorneys, Laura G. Zois, Ronald V. Miller, Jr., John B. Bratt and Miller & Zois, LLC, hereby submits Plaintiff's Motion to Conduct Discovery Prior to the Time Specified in Rule 26(d). Plaintiff has been forced to file this Motion because the **statute of limitations** runs on his potential product liability claims on September 5, 2008. Plaintiff wants to begin conducting discovery immediately because he is presently unable to identify all potential defendants, and he believes the information is known to one or more of the current Defendants.

I. INTRODUCTION

Richard Hansel was catastrophically injured on September 5, 2005. He was working as a laborer engaged in breaking down the local set of the stage production ***The Lion King*** after its run at the Hippodrome Theater in **Baltimore, Maryland**. Mr. Hansel was injured while pushing a large wheeled box known as a "road case" or otherwise known as a "set cart" (hereinafter referred to as a "road case").

A road case is a custom-made box designed to hold and protect pieces of material while being transported between locations as the production tour continues. The road case that Plaintiff was pushing at the time of the occurrence was approximately four feet long, by four feet wide, by nine feet high, and was constructed of three feet by six feet welded rectangular steel framing and included standard forklift slots and a central support, as well as four pneumatic caster wheels on the base, which moved independently of each other.

The road case held six to eight sections of four feet by eight feet steel and wood stage floor pieces, that weighed nearly one hundred pounds each. Although the Hippodrome Theater is equipped with dual loading docks, allowing two tractor trailers to be loaded simultaneously, this was not done. Instead, because of a time delay, Baltimore Street was closed, allowing for the loading of multiple trucks at the

same time. The road cases were pushed up a concrete ramp to street level, where they were moved to waiting trucks. While Mr. Hansel was pushing the road case down the street towards the trucks, the road case became unstable and collapsed on top of him, causing severe and permanent injuries.

The Complaint states causes of action against all Defendants in Negligence, Products Liability-Defective Design, Products Liability-Manufacturing Defect, and Products Liability-Failure to Warn. Plaintiff does not know who designed, manufactured or distributed the road case. Plaintiff has made diligent efforts, both formally and informally, to get this information. Plaintiff's formal efforts include serving all Defendants with Interrogatories requesting that they disclose their role in designing, manufacturing or distributing the road case, or that they identify anyone who did have a role in designing, manufacturing or distributing the road case. Exhibit 1.



Plaintiff has also served Defendants with a Request for Production seeking any documents related to the same topics. Exhibit 2. During a conversation with defense counsel, Kathleen Bustraan, in January of 2008, Plaintiff's counsel verbally requested this information. Defense counsel indicated that Defendant was not in possession of such information, and would reevaluate Plaintiff's request should the information become available. Exhibit 3. Plaintiff's counsel has revisited this issue with defense counsel, Kathleen Bustraan, on numerous occasions, as recently as June 9, 2008. Plaintiff's counsel advised defense counsel that this Motion would be filed. Defense counsel has indicated to the undersigned that, to date, she does not know the identity of the entities who manufactured, designed or distributed the road case, but that she has requested this information from her clients. Plaintiff's counsel has also verbally requested the location of the road case in order to examine it to determine whether there is any indication as to the manufacturer. However, defense counsel does not know the current whereabouts of the road case. Defendants should have access to the road case and know its whereabouts. On September 19, 2005, Plaintiff's counsel requested that the Defendant secure the road case. Exhibit 4. On September 28, 2005, Defendant confirmed receipt of Plaintiff's request. Exhibit 5.

II. ARGUMENT

Plaintiff has less than three months in which to identify additional Defendants. Plaintiff was injured on September 5, 2005. He must bring suit for all claims related to his injuries no later than September 5, 2008, because of Maryland's three year statute of limitations. Md. Cts.&Jud. Proc. Code Ann. § 5-101. Plaintiff desperately needs to conduct discovery to identify any additional prospective defendants before his rights expire. As it stands, the Defendants have not informally identified the potential third party and there is no pressure upon them to do so. Even though discovery has been served, the removal notice and motions surrounding the issue of the remand have stalled the discovery process. Plaintiff's counsel anticipates further preliminary motions are coming.

Defendants **Hippodrome Foundation**, Inc. (hereinafter "HFI") and Hippodrome Performing Arts Center, LLC (hereinafter "HPA") filed an affidavit stating that neither they nor "their employees designed, manufactured, distributed or supplied to plaintiff the road case that is the subject of Mr. Hansel's claim." Exhibit 6. HFI and HPA do not address whether they have any knowledge of who did design, manufacture, distribute or supply the road case.

Thus far, Defendant Buena Vista Theatrical Group, Ltd. (hereinafter "BVTG") is the only defendant to affirmatively address any issues regarding the origin of the road case. BVTG has provided the affidavit of Michael T. Carey, III. Exhibit 7. Mr. Carey was employed by BVTG as Head Carpenter for the production of *The Lion King* at the time of Plaintiff's injury. *Id.* Mr. Carey states that BVTG *provided* the road case to

Plaintiff (emphasis added). *Id.* However, Mr. Carey does not reveal how BVTG acquired the road case, who designed, manufactured or distributed it. What is concerning about this is that it appears that BVTG knows that they did not manufacture, design or distribute the road case, leading Plaintiff to the conclusion there are other entities to be identified. Obviously, if BVTG supplied the road case to Plaintiff, BVTG possesses some knowledge of where it came from. Even if BVTG is unable to identify who designed or manufactured the road case, it should at least be able to identify the next link in the supply chain or disclose the whereabouts of the road case and make it available for Plaintiff's inspection.

This information is solely in the hands of the Defendants, and is essential to Plaintiff's efforts to identify and serve all potential defendants. Because of this, Plaintiff asks this Court to order that Plaintiff may immediately proceed with discovery on the limited issue of the identity of anyone who may have designed, manufactured or distributed the road case.

Defendants will not be prejudiced by the Plaintiff's request for limited early discovery. Plaintiff is not asking the Court to allow discovery to begin on every issue involved in this case. Instead, he is seeking solely to identify potential defendants before his rights expire. Plaintiff asks that Defendants be ordered to immediately respond to Plaintiff's Interrogatory Nos. 3, 6, 16, 17 and 19 through 23 (Exhibit 1), and to immediately respond to Plaintiff's Request for Production Nos. 12, 22, 23, 25, 26, 31 through 38 and 43 through 47 (Exhibit 2). BVTG has been in possession of the written discovery for 77 days. Each of these requests is directed at identifying the designer, manufacturer or distributor of the road case. Plaintiff also asks that this Court permit expedited corporate representative depositions pursuant to Rule 30(b)(6) limited to the same issue. Attached as Exhibit 8 is Plaintiff's proposed deposition notice and topic list.

III. CONCLUSION

Plaintiff's Motion to Conduct Discovery Prior to the Time Specified in Rule 26(d) should be granted. Plaintiff is subject to a looming statute of limitations deadline, and must identify all potential defendants immediately so they may be made parties to this action before his rights expire. The information Plaintiff seeks is believed to be solely in the hands of the Defendants. The Defendants will not be prejudiced by this request, as it is limited solely to discovery that would aid in identifying potential additional parties. Should this Court deny Plaintiff's request, he will be greatly prejudiced. The interests of justice demand that Plaintiff's motion be granted.

Respectfully submitted,

Miller & Zois, LLC

Laura G. Zois (Bar No. 25076)
Ronald V. Miller, Jr. (Bar No. 25721)
John B. Bratt (Bar No. 26037)
1 South St, #2450
Baltimore, MD 21202
laurazois@millerandzois.com
(410) 779-4600
Attorneys for the Plaintiff

Certificate of Service

I, Laura G. Zois, do hereby certify that, as required by F.R.C.P. 5(a), I sent a true and correct copy of Plaintiff's foregoing **Plaintiff's Motion to Conduct Discovery Prior to the Time Specified in Rule 26(d)** via U.S. first class mail, this 10th day of June, 2008 to:

Kathleen M. Bustraan, Esquire
Lord & Whip
Charles Center South

36 South Charles Street, 10th Floor
Baltimore, MD 21201-3020

Attorney for Defendants The Walt Disney Company, Disney Theatrical Productions, Ltd., Buena Vista Theatrical Group, Ltd., Disney on Broadway and Michael T. Carey, III

Rodger O. Robertson, Esquire
The Law Offices of Joseph M. Jagielski
B&O Building, Suite 730
2 North Charles Street
Baltimore, Maryland 21201

Attorney for Defendant Hippodrome Foundation, Inc. and Hippodrome Performing Arts Center, LLC

Albert B. Randall, Jr., Esquire
Franklin & Prokopik, P.C.
The B&O Building

2 North Charles Street, Suite 600
Baltimore, Maryland 21201-3723

Attorney for Defendants Theatre Management Group, Inc., Theatre Management Group, Maryland, LLC and Clear Channel Broadcasting, Inc.

Laura G. Zois

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

RICHARD Hansel,
Plaintiff,

v.

BUENA VISTA THEATRICAL GROUP, LTD., *et al.*
Defendants.

Case No. **1:08-cv-00775 (RDB)**

ORDER

Having fully read and considered Plaintiff's Motion to Conduct Discovery Prior to the Time Specified in Rule 26(d) and all responses thereto, it is this ____ day of _____, 2008, by the United States District Court for the District of Maryland, **ORDERED**, that the instant Motion is hereby GRANTED; and it is further, **ORDERED** that Defendants respond to Plaintiff's Interrogatories Nos. 3, 6, 16, 17, 19, 21, 22 and 23 and Plaintiff's Request for Production of Documents Nos. 12, 22, 23, 25, 26, 31, 32, 33, 34, 35, 36, 37, 38, 43, 44, 45, 46 and 47 by _____, 2008; and it is further, **ORDERED** that Defendants provide to Plaintiff within thirty (30) days of this signed Order available dates for the Deposition of their respective Corporate Designee.

JUDGE

cc: Laura G. Zois, Esquire

Attorney for Plaintiff

Kathleen M. Bustraen, Esquire

Attorney for Defendants The Walt Disney Company, Disney Theatrical Productions, Ltd., Buena Vista Theatrical Group, Ltd., Disney on Broadway and Michael T. Carey, III

Rodger O. Robertson, Esquire

Attorney for Defendant Hippodrome Foundation, Inc. and Hippodrome Performing Arts Center, LLC

Albert B. Randall, Jr., Esquire

Attorney for Defendants Theatre Management Group, Inc., Theatre Management Group, Maryland, LLC and Clear Channel Broadcasting, Inc.

- [**Maryland Accident Lawyer Help Center**](#) (designed to assist the personal injury lawyer in the handling of accident and injury cases)
- [**Sample Attorney Motions**](#) (more practical motions like this one)

Client Reviews

★ ★ ★ ★ ★

Ron helped me find the attorney I needed with any of his help and he settled the case so much faster than I hope for.

- ~~Arny~~ **Waldson**

★ ★ ★ ★ ★

Our Firm

[Verdicts & Settlements](#)

[Client Reviews](#)

[Awards & Recognition](#)

[Attorney Referrals](#)

[Community Involvement](#)

[Miller & Zois Scholarship](#)

[Baltimore Office](#)

[Washington DC Office](#)

Attorneys

[Ronald V. Miller, Jr](#)

[Laura G. Zois](#)

[Justin Zuber](#)

[Beth Frey](#)

[Lisa A. Miller](#)

[More](#)

Medical Malpractice

[Medical Misdiagnosis](#)

[Surgery Malpractice](#)

[Hospital Malpractice](#)

[Medication Error](#)

[Emergency Room Error](#)

[Birth Injury](#)

[Drugs & Medical Device](#)

[More](#)

Personal Injury Practice

[Car Accidents](#)

[Truck Accidents](#)

[Motorcycle Accidents](#)

[Nursing Home Negligence](#)

[Wrongful Death](#)

[Premises Liability](#)

[Products Liability](#)

[More](#)

Communities Served

[Baltimore City](#)

[Baltimore County](#)

[Prince George's County](#)

[Montgomery County](#)

[Anne Arundel County](#)

[Frederick County](#)

[Washington DC](#)

[More Communities](#)

Injury Victim Help Center

[Legal Blogs](#)

[FAQs - Questions & Answers](#)

[Videos](#)

[Child Safety Center](#)

[Time to Bring a Claim](#)

[Determining Case Valuation](#)

[How Long to Settle](#)

Plaintiff Attorney Center

[Case Valuation for Settlement](#)

[Anatomy of a Trial](#)

[Pre Trial Filings & Motions](#)

[Trials & Juries](#)

[Tools & Sample Documents](#)

[Mediation & Arbitration](#)

Insurance Company Insight

[Allstate](#)

[Erie Insurance](#)

[GEICO](#)

[Nationwide](#)

[Progressive](#)

[State Farm](#)

[USAA](#)

[Settlement Calculator](#)[Appeals & Appellate
Practice](#)[More](#)[Maryland Law](#)

1 South St #2450
Baltimore, MD 21202

Phone: (410) 779-4600

Toll Free: (800) 553-8082

1629 K St NW #300
Washington, DC 20006

Phone: (800) 553-8082

We serve the following localities: Baltimore; Prince George's County including Bowie, Laurel, Landover, Hyattsville; Anne Arundel County including Glen Burnie; Baltimore County including Cockeysville, Glyndon, Hunt Valley, Jacksonville, Lutherville-Timonium, Owings Mills, Parkville, Reisterstown, and Towson; Carroll County including Westminster; Frederick County including Frederick; Harford County including Abingdon, Bel Air, Belcamp, and Forest Hill; Montgomery County including Germantown and Rockville; Howard County including Ellicott City and Columbia, Washington, D.C. and Washington County including Hagerstown.

This site is protected by reCAPTCHA and the Google [Privacy Policy](#) and [Terms of Service](#) apply.

Please do not include any confidential or sensitive information in a contact form, text message, or voicemail. The contact form sends information by non-encrypted email, which is not secure. Submitting a contact form, sending a text message, making a phone call, or leaving a voicemail does not create an attorney-client relationship.

Copyright © 2024, [Miller & Zois, Attorneys at Law](#)

[JUSTIA Law Firm Website Design](#)